

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

SAMUEL SILVAL ISAIS, §
Institutional ID No. 66064-097, §
§
Plaintiff, §
§ CIVIL ACTION NO.
v. § 5:13-CV-00260-C
§
D. JONES, Chaplain, *et al.*, §
§
Defendants. § ECF

ORDER

Plaintiff Samuel Silval Isais , acting *pro se*, filed a civil rights complaint on November 12, 2013, and was subsequently granted permission to proceed *informa pauperis* pursuant to 28 U.S.C. § 1915(b). Plaintiff alleged that the named defendants illegally seized his personal property and restricted the practice of his religion, and he requested monetary damages. The Defendants have not filed an answer.

By Order dated June 10, 2014, the complaint was transferred to the docket of the United States Magistrate Judge for judicial screening pursuant to 28 U.S.C. §§ 1915 and 1915A. By Order dated August 14, 2014, the Magistrate Judge ordered Plaintiff to complete a questionnaire within thirty (30) days from the date of the Order. *See Green v. McKaskle*, 788 F.2d 1116, 1120 (5th Cir. 1986) (holding that a prisoner may be required to supplement his civil rights complaint with answers to a questionnaire). Plaintiff failed to timely respond to the June 10 Order; therefore, by Order dated September 24, 2014, the Magistrate Judge ordered Plaintiff to complete a questionnaire within twenty (20) days from the date of the Order. Plaintiff was specifically admonished that his failure

to timely provide a response to the questionnaire could result in the dismissal of his complaint for want of prosecution.

After Plaintiff failed to respond to the September 24 Order, the Magistrate Judge filed a Report and Recommendation on December 4, 2014, recommended that the complaint be dismissed for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b), and transferred the complaint back to this Court. Plaintiff did not file a reply or objections to the Report and Recommendation.

The undersigned District Judge has made an independent examination of the record in this case and finds that the Magistrate Judge's findings and conclusions should be ADOPTED.

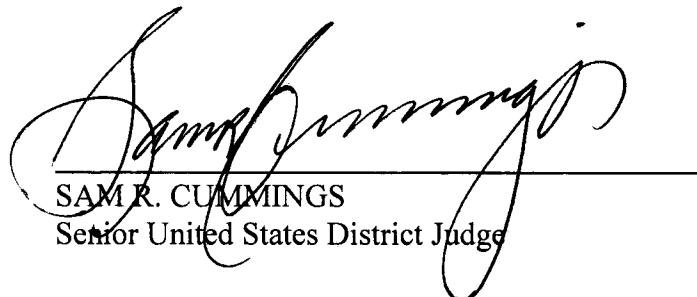
It is, therefore, **ORDERED**:

- (1) Civil Action No. 5:13-CV-00260-C and all claims alleged are DISMISSED without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for want of prosecution.
- (2) Any pending motions are DENIED.
- (3) The dismissal of Plaintiff's complaint does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See* 28 U.S.C. § 1915(b)(1) ("Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner **shall be required to pay the full amount of a filing fee.**") (emphasis added); *Hatchet v. Nettles*, 201 F.3d 651, 654 (5th Cir. 2000) ("No relief from an order directing payment of the filing fee should be granted for a voluntary dismissal.").
- (4) Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA, and he must submit an application to proceed *in forma*

pauperis and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Judgment shall be entered accordingly.

Dated February 4, 2015.



SAM R. CUMMINGS
Senior United States District Judge

A handwritten signature of "Sam R. Cummings" is written over a horizontal line. Below the signature, the name "SAM R. CUMMINGS" is printed in capital letters, followed by the title "Senior United States District Judge".